

## **REMARKS**

### ***Information Disclosure Statement***

The non-patent literature publication (brochure) entitled "Osmo-C-Truss" submitted with the Information Disclosure Statement filed June 28, 2004 as not found in the file wrapper and therefore not considered. Therefore, a separate Information Disclosure Statement is filed concurrently herewith to make this publication of record.

### ***Claim Rejections - 35 USC § 102***

The rejection of claims 1-5 under 35 USC 102(b) as being anticipated by US 2508032 (Kennedy) is respectfully traversed for the reason explained below.

Claim 1 requires "an open cross-sectional configuration characterized by a pair of side flanges *each extending from a respective one of the longitudinal edges* in a direction *diverging from the other side flange*" (emphasis added). With reference to Fig. 3 of Kennedy, the Patent Office has identified portion 10 and "the portion between 11 and 8" as meeting the limitations of the claimed pair of flanges. Applicants agree that portion 10 is a flange that extends from a longitudinal edge of the member. However, applicants respectfully disagree that the portion between 11 and 8 in Kennedy is a flange that extends from a longitudinal edge of the member. Rather, applicants submit that it is portion 11 (not the portion between 11 and 8) that extends from the longitudinal edge to provide a flange, and that flange 11 extends parallel to the other side flange 10 contrary to claim 1. Therefore, claim 1, and its dependent claims 2-5, are neither anticipated nor rendered obvious by Kennedy. Accordingly, applicants respectfully request that the rejection be removed.

### ***Claim Rejections - 35 USC § 103***

Claims 6, 8-10, and 13 are rejected under 35 USC 103(a) as being unpatentable over Kennedy. This rejection is respectfully traversed based on the following remarks.

Claims 6 and 8 depend ultimately from claim 1, and therefore are distinguishable over Kennedy for the reason explained above with respect to claims 1-5.

Claim 9 requires that the bridge portions, which connect the outer flanges to the inner apex portions of the cross-section, are "straight." The Patent Office has identified "8 & 5 and 4 & 7" as meeting the claimed pair of straight bridge portions. However, portions 8 and 5 are bent with respect to one another, as are portions 4 and 7. Therefore, neither 8 and 5, nor 4 and 7, can be considered a straight bridge portion in accordance with claim 9. For this reason, claim 9 and its dependent claims 10 and 13 are patentable over Kennedy.

Moreover, with specific regard to claim 10, the members disclosed by Kennedy do not have a cross-sectional configuration "characterized by an axis of symmetry midway between the pair of edges" as claimed. For example, side flanges 10 and 11 are not symmetrical.

For these reasons, applicants respectfully ask that the rejection of claims 6, 8-10, and 13 be withdrawn.

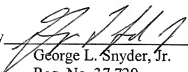
***Allowable Subject Matter***

The indication of allowable subject matter in claims 7, 11, and 12 is acknowledged with thanks. Applicant has rewritten claims 7 and 11 in independent form including all the limitations of the base claim and any intervening claims. Claim 12 depends from claim 11. Allowance of claims 7, 11, and 12 is kindly sought.

***Conclusion***

The present application is now thought to be in condition for allowance, which action is respectfully requested. If the Examiner has any questions, or the attorneys for applicant can assist in any way, the undersigned attorney may be contacted at the number provided below.

Respectfully submitted,  
HODGSON RUSS LLP

By   
George L. Snyder, Jr.  
Reg. No. 37,729

GLS/  
One M&T Plaza, Suite 2000  
Buffalo, New York 14203-2391  
(716) 856-4000  
DATED: February 13, 2007